

Legal and Psychological Issues in Move-Away Cases
Satellite Broadcast, June 9, 2005

Decision Making Approach to
Move-Away Cases

1. Determine if this is an evaluation which requires an assessment first of detriment. If yes, assess whether the move is likely to result in detriment (obvious harm or damage). If no, go to #2 below: evaluation of best interests.
 - a. If the move is likely to cause detriment, next step is an analysis of best interest.
 - b. If the move is not likely to cause detriment, and the Court agrees, no further analysis necessary (move occurs). (It is important to know whether your Court would like both the detriment and the best interest analysis at the same time). A recommendation for a contact schedule might be required by the Court.
2. Evaluate the move according to the best interest standard, including the specific move-away factors included in *Burgess* and *LaMusga*. Move-away evaluations also include the usual factors listed in Family Code Sections 3011 and 3020, California Rule of Court 5.220, and others as suggested. A best interest recommendation would typically be one that results in the least detriment.
3. Special attention to Recommendations:
 - a. Consider multiple scenarios, for example, plan “A” if the custodial parent moves, and plan “B” if the custodial parent does not move, (with a clear explanation that the recommendation is not intended to apply pressure the custodial parent into not moving).
 - b. Include considerations for handling the move and the distance between family members:
 - i. Transportation issues
 - ii. Contact with non-resident parent, both face-to-face, and interim; in the non-residential parents home, and in the community of the child
 - iii. Information exchange between parents